

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/885,793

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Inventor(s):

Joel Zdepski

Title: AUTOMATED INPUT IN
AN INTERACTIVE
TELEVISION SYSTEM

§ Examiner: Shang, Annan
§ Group/Art Unit: 2623
§ Atty. Dkt. No: 5266-03400

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Rory D. Rankin

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Signature

Date

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated below.

Applicant is in receipt of the Final Office Action mailed September 3, 2008. Claims 1-9, 11-26, 28-42, 44-61, and 63-80 remain pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks.

In the present Office Action, claims 1-9, 11-26, 28-42, 44-61, and 63-80 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Shoff et al, U.S. Patent No. 6,240,555 (hereinafter “Shoff”). The following clear errors in the Examiner’s rejection are noted.

Regarding Claim 1, Applicant argued in response to the Office Action dated February 8, 2008 that Shoff does not disclose “executing a script which generates one or more automatic selections associated with the opportunity and comprising input to the interactive application that triggers provision of said added content, the input being input that would otherwise be received responsive to a viewer’s active interaction,” as recited. In the present Office Action, the Examiner disagreed and stated:

“Shoff discloses that, ‘An icon 204 is display at the lower right corner of the screen to inform the viewer that the program 202 is interactive (figs. 8a+, col. 9, lines 41+)’ As long as the viewer does not activate the icon 204, the viewer computing unit continues to receive the video program over the selected channel and display that program alone, with out any supplemental content (steps 166 and 168 in FIG. 6). If the viewer decides to enter into an interactive mode, the viewer employs a remote control...This causes the browser 106 to start the target resource located by the target specification listed in the EPG data structure (step 170 via the ‘yes’ branch from step 164). The flow chart, Figs. 6-7, clearly shows that the computing unit processor goes through step 170 to step 186 and further teaches providing multiple levels of added content either upon selection or automatically provided by the storage unit of VCU or the headend (figs. 6-9, col. 4, lines 27-34, col. 9, line 41-col. 10, line 10 and line 24-col. 12, line 38). As further illustrates in fig. 6-7, steps 182-186 is a continuous process where the viewer computing unit (VCU) continuously receives and presents supplemental information (“... automatic selections associated with the opportunity and comprising input to the interactive application ...”) with the video program (col. 10, line 34-col. 12, line 38).”

Applicant submits the Examiner’s characterization of what Shoff discloses is incorrect in certain particulars. For example, Shoff’s flow chart, Figs. 6-7, steps 170-186 does not disclose or suggest in this or any other portion of Shoff a script generating selections “comprising input to the interactive application that triggers provision of said added content, the input being input that would otherwise be received responsive to a viewer’s active interaction,” as recited. The formatting and timing of the presentation of Shoff does not trigger provisioning of the added content that is associated with the opportunities to invoke supplemental content that are presented to the user. The mechanism through which added content is formatting and timed by Shoff, as described in steps 170-186, is merely a prescribed presentation of content as determined by a developer. More specifically, Shoff discloses:

“At the viewer computing unit, the digital data is deconstructed to extract the timing information and the display layout from the supplemental

content (step 176 in FIG. 6 and step 178 in FIG. 7). The display layout defines a program boundary within which the program is displayed to the viewer. The program boundary is sized and shaped according to parameters prescribed in the display layout. As the size and shape changes, the processor scales the video data for display within the program boundary at that instance (step 180 in FIG. 7).

The display layout also defines how the supplemental content is illustrated along with the program. The display layout prescribes the size, style, location, and other parameters for presenting the supplemental content. For instance, the supplemental content might be at least partly overlaid on the video program, or provided as a wrapper around, or along side, the program. The supplemental content is displayed according to this display layout and synchronized to the program according to the timing information (step 182 in FIG. 7). As an example, the supplemental content might be a trivia game which quizzes the viewer as to possible outcomes of various scenes. The questions are displayed on the screen according to the display layout and are timed using the timing information to coincide with the part of the program to which the questions pertain. (Shoff, col. 10, lines 34-58).

As may be seen from the above, Shoff discloses that digital data provides timing information, display layout information, program boundaries and other parameters for presenting supplemental content. However, the digital data does not replace user selections. None of steps 170-186 cause an input that would otherwise be received responsive to a viewer's active interaction. Separately, Shoff does provide for viewer interaction, for example, via soft buttons. Shoff's digital data does not provide an input that would trigger provisioning of added content, content that would otherwise be the result of the viewer activating a soft button. Activating a soft button to trigger provisioning of added content and formatting and timing the presentation of added content are two entirely different actions. Therefore, Applicant finds no teaching or suggestion in Shoff of "executing a script which generates one or more automatic selections associated with the opportunity and comprising input to the interactive application that triggers provision of said added content, the input being input that would otherwise be received responsive to a viewer's active interaction," as is recited in claim 1. For at least these reasons, claim 1 is patentably distinguishable from the cited art. Each of claims 19, 34, and 50 are distinguishable for similar reasons.

In addition, in the final Office Action it is suggested that Shoff discloses all of the features of claims 9 and 17 including

"where the script is configured to retrieve either one or more automatic selections or the one or more user selections from the message queue in a repeated manner and where the interactive application is configured to determine whether one or more automatic selections exists by accessing

the message queue (col. 9, line 54-col. 10, line 17 and line 50-col. 11, line 1+)."

However, Applicant finds no teaching or suggestion of a "message queue" as is recited in claim 17, in the cited portion or anywhere else in Shoff, let alone the combined use of a message queue "to retrieve either one or more automatic selections or the one or more user selections," as is recited in claim 9. For at least these reasons, claims 9 and 17 are patentably distinguishable from the cited art. Each of claims 26, 32, 42, 48, 61, and 67 is distinguishable for similar reasons.

Also, in the final Office Action it is suggested that Shoff discloses all of the features of claim 15 including "wherein a receiver is configured to dynamically create the script and execute the script to generate the one or more automatic selections (col. 10, line 53-col. 11, line 44 and line 48-col. 12, line 30)." However, the cited portion of Shoff merely recites providing supplemental information based on either user inputs or time-linked contextual data from a target resource. The effects of Shoff's target resource are pre-determined by a content developer. Therefore, the target resource is not dynamically created. Applicant has reviewed both the cited portion and the remainder of Shoff and finds no teaching or suggestion of dynamically creating a script. For at least these reasons, claim 15 is patentably distinguishable from the cited art. Each of claims 31, 47, and 66 is distinguishable for similar reasons.

In addition, in the final Office Action it is suggested that Shoff discloses all of the features of claim 11 including "wherein the script is dynamically created in a user STB based on user preferences (col. 4, line 56-col. 5, line 23, col. 10, line 53-col. 11, line 44)." However, the cited portion of Shoff merely describes the types of supplemental content that may be provided in an interactive entertainment system. Applicant finds no teaching or suggestion in the cited art of a script or a similar feature created dynamically based on user preferences. For at least these reasons, claim 11 is patentably distinguishable from the cited art. Each of claims 28, 44, and 63 is distinguishable for similar reasons.

Also, in the final Office Action it is suggested that Shoff discloses all of the features of claim 12 including "indicating default script usage preferences and storing the preferences (col. 10, line 59-col. 11, line 33)." However, the cited portion of Shoff merely recites various "soft buttons" that may be selected by a user to interact with a program. One of the soft buttons is a toggle between an access mode and a classified mode. Shoff teaches that the access mode serves as a default mode. However, selecting the default access mode does not indicate or store default script usage preferences, since the access mode does not use a script at all. Instead, the access mode merely accepts interactive inputs from the user. Nor does the classified mode include indicating or storing default script usage preferences. Even if one were to assume, for the sake of argument, that having a default mode that does not use scripts is a default script usage preference, nowhere does Shoff describe "indicating default script usage preferences; and storing said preferences," as is recited in claim 12. For at least these reasons, claim 12 is patentably distinguishable from the cited art. Each of claims 29, 45, and 64 is distinguishable for similar reasons.

In light of the foregoing remarks, Applicant submits clear errors are present in the rejections and the application is in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5266-03400/RDR.

Respectfully submitted,

/ Rory D. Rankin /

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